

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

PARTIDA SIMON	§	
VS.	§	CIVIL ACTION NO. 1:19cv254
MR. ROBERT, ET AL.	§	

MEMORANDUM OPINION REGARDING VENUE

Plaintiff Partida Simon, an inmate confined at the Wynne Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brings this civil rights complaint pursuant to 42 U.S.C. § 1983.

The above-styled action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636 and the Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Factual Background

On Father's Day, June 6, 2004, plaintiff claims he accidentally shot a hole through the roof of his house while no one else was home. Plaintiff states his house is located outside the city limits of the City of Paducah, Texas. Plaintiff alleges he was falsely arrested for aggravated assault of a peace officer by defendant Mr. Robert, Chief of Police. Plaintiff also alleges he was unlawfully convicted and sentenced to a term of forty-five years' imprisonment by defendants Mr. Bill Hickly, a judge, and Mr. High Jack, a prosecutor.

Analysis

The Civil Rights Act, 42 U.S.C. §1981, *et seq.*, under which this case is brought, does not contain a specific venue provision. Accordingly, venue in civil rights cases is controlled by 28

U.S.C. § 1391. *Jones v. Bailey*, 58 F.R.D. 453 (N.D. Ga. 1972), *aff'd per curium*, 480 F.2d 805 (5th Cir. 1973).

When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where the defendants reside or in which the claim arose. Here, plaintiff complains of incidents which occurred in or around Paducah, Texas. The city of Paducah is located in Cottle County, Texas. Further, the defendants are all employed in Cottle County, Texas. Pursuant to 28 U.S.C. § 124, Cottle County is located in the Wichita Falls Division of the United States District Court for the Northern District of Texas. Accordingly, venue for such claims is not proper in the Eastern District of Texas.

When venue is not proper, the court “shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” 28 U.S.C. § 1406(a). This action should be transferred to the Northern District of Texas. An appropriate order so providing will be entered by the undersigned.

SIGNED this 13th day of June, 2019.



Zack Hawthorn
United States Magistrate Judge